



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$8.40

WINDHOEK - 16 February 2016

No. 5949

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General Notice

ELECTRICITY CONTROL BOARD

ECONOMIC RULES: ELECTRICITY ACT, 2007

No. 46 2016

The Electricity Control Board has, under section 3(4) of the Electricity Act, 2007 (Act No. 4 of 2007), and with the approval of the Minister of Mines and Energy, made the rules with regard to economic matters in the electricity industry as set out in the Schedule.

J. NANDAGO
CHAIRPERSON OF THE
ELECTRICITY CONTROL BOARD

Windhoek, 11 September 2015

SCHEDULE

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Definitions

1. In these rules a word or expression to which a meaning has been assigned in the Act bears that meaning and unless the context otherwise indicates -

“access” means a person’s access to a licensee’s electrical system in order for such person to be provided with electricity from such network;

“connecting licensee” means -

- (a) in the case of off-grid standby generation, the licensee who provides electricity to the person who operates or intends to operate the off-grid standby generator, if there is such a licensee;
- (b) in the case of on-grid standby generation and small scale in-feed generation, the licensee to whose electrical system the person who operates or intends to operate the on-grid standby generator or small scale in-feed generator connects or intends to connect such generator;

“connection charge” means a charge levied by a licensee for access or open access to its electrical system;

“contract of supply” means a contract between a licensee and a customer or prospective customer for the provision of electricity by the licensee to the customer or prospective customer;

“electrical installation” means the entire electrical installation on a customer’s premises, including all material, equipment and appliances used or intended to be used for or in connection with the provision of electricity to the customer’s premises, but does not include the service apparatus or any part of the connection installed by a licensee;

“emergency service” means -

- (a) the Namibian Police Force established by section 2 of the Police Act, 1990 (Act No. 19 of 1990) or any municipal police service established by a local authority pursuant to section 43C of that Act;
- (b) any fire brigade service established by a local authority pursuant to section 2 of the Local Authorities Fire Brigade Services Act, 2006 (Act No. 5 2006) ;
- (c) any hospital or health facility as defined in section 1 of the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994); or
- (d) such other service as may be identified by the Board as an emergency service and notified to licensees;

“generator” means any device which converts energy not derived from a licensee’s electrical system into electrical energy;

“internet” refers to a global computer network consisting of interconnected networks and computers using standardised communication protocols that allows for almost instant delivery of data, information or communication facilities;

“licensed undertaking” means an undertaking for the generation, transmission, trading, supply, distribution, import or export of electricity for which a licence has been granted under the Act;

“licensee’s tariffs” mean all tariffs, whether or not contained in the licensee’s schedule of approved tariffs, charged by a licensee against a customer, another licensee or any other person in connection with the provision of electricity;

“methodology”, when referred to as a methodology of the Board, may include a policy, framework, guideline, principle or any other similar instrument;

“net metering” means measuring the difference in an applicable billing period between the electricity provided by a connecting licensee and the electricity generated by a small scale in-feed generator that is fed back to the connecting licensee’s electrical system;

“off-grid standby generator” means a standby generator connected to an electrical installation and installed in such a manner so as not to be capable of feeding electricity into a licensee’s electrical system;

“on-grid standby generator” means a standby generator installed to be capable to connect to a licensee’s electrical system and to be synchronised with such electrical system but which, despite such connection, does not normally feed electricity into a licensee’s electrical system;

“open access” means access to the transmission or distribution network of a transmission or distribution licensee as contemplated in section 30 of the Act;

“operator” means a person operating a generator whether or not such person is the owner of such generator;

“owner”, in relation to any premises, means the person in whom the legal title of such premises is vested, and includes -

- (a) if the owner -
 - (i) is deceased;
 - (ii) is insolvent;
 - (iii) is mentally ill;
 - (iv) is a minor;
 - (v) has assigned such owner’s estate for the benefit of the owner’s creditors;
 - (vi) has been placed under curatorship by order of court;
 - (vii) is a body corporate being wound up or under judicial management; or
 - (viii) is under any legal disability,

- the person in whom the custody or administration of the premises is vested as executor, trustee, curator, guardian, liquidator or in any other legal capacity;
- (b) if the premises are leased and registration in a deeds registry is a prerequisite for the validity of the lease, the lessee;
 - (c) the owner's authorised representative or a person receiving the rent of the premises on behalf of the owner;
 - (d) where the premises are beneficially occupied under a servitude or similar right, the person in whom the right is vested;
 - (e) if the owner is a person who is absent from Namibia or whose whereabouts are unknown, the authorised representative of the owner in Namibia;

“point of supply” means the point, as determined by the licensee, at which electricity is provided to a customer's premises;

“prepayment meter” means a meter or device capable of allowing and recording the flow of pre-purchased amounts of electrical energy in an electrical circuit;

“rules” means these Economic Rules;

“schedule of approved tariffs” means a licensee's schedule of approved tariffs as contemplated in section 27 of the Act;

“service apparatus” means any protective device, meter and prepayment meter, load controller, connection terminal or other apparatus belonging to a licensee and installed on the customer's premises and which is primarily used to control, switch and meter the electricity provided to the customer's premises;

“small scale in-feed generator” means a generator which connects to a licensee's electrical network and which is capable of feeding electricity into the licensee's electrical system;

“stand alone generator” means a generator which is used to provide electricity to a structure, building or any electricity consuming device not being provided with electricity by a licensee and which structure, building or device is not connected to a licensee's electrical system;

“standby generator” means a generator providing an alternative source of electricity to a customer and used by such customer as a back-up or an emergency source of electricity if electricity received by such customer from an electrical system fails, is insufficient or another reason exists necessitating such alternative source of electricity;

“subordinate legislation” means regulations, rules or codes issued, or standards set, under the Act;

“supply main” means any electric cable or overhead line or distribution cubicle forming part of a licensee's electrical system to which the electrical installation is connected;

“the Act” means the Electricity Act, 2007 (Act No. 4 of 2007);

“TOU tariff” means a time-of-use tariff whereby a customer is charged different electricity tariffs at different times of the day, week, month or year in order to reflect the real time cost incurred with regard to the delivery of such electricity;

“unlicensed generator” means a generator which is not required to be licensed under the Act or any subordinate legislation and includes a stand alone generator, a standby generator and a small scale in-feed generator; and

“unlicensed generation” means electricity generated from an unlicensed generator.

Objects of rules

2. (1) The objects of these rules are -
 - (a) to ensure -
 - (i) efficient functioning and development of the electricity industry;
 - (ii) efficient electricity provision; and
 - (iii) security of electricity provision;
 - (b) to promote electricity tariffs and charges which allows licensees a reasonable rate of return to ensure that licensees are able to finance the electricity services and electricity related activities pursuant to their licensed undertakings;
 - (c) to establish a regulatory environment within which the Board can effectively exercise control over, monitor and enforce the economic regulation of electricity provision with regard to, but not limited to the following -
 - (i) a competitive, affordable and sustainable electricity industry;
 - (ii) economically efficient electricity tariffs and charges;
 - (iii) ensuring a balance between cost-reflectivity, sustainability and affordability in terms of prevailing electricity pricing policies and practices;
 - (iv) promotion of access to the electricity industry;
 - (v) protection of electricity customers and other persons against abusive or anti-competitive electricity practices;
 - (vi) promotion of competition and private sector investment in the electricity industry;
 - (vii) strengthening of contractual relationships between licensees and customers; and
 - (viii) improve regulatory predictability.
- (2) The Board must exercise its functions and perform its duties under the Act, these rules and other laws with due recognition of the objects set out in subrule (1).

Duties of licensee

3. (1) A licensee must -
 - (a) operate its licensed undertaking in an effective and efficient manner;

- (b) work towards the long term sustainable provision of electricity and the development and expansion of its electrical system and electricity services including access and, if applicable, open access thereto;
- (c) implement fair and transparent electricity pricing practices and methodologies and, except if specifically authorised to do so, not unreasonably discriminate against customers or classes of customers in the electricity tariffs it charges;
- (d) through the efficient utilisation of capital and investment in infrastructure, progressively improve access to its electrical system of at least basic electricity services, subject to technical and other objectively determined restraints; and
- (e) endeavour to facilitate national economic and social objectives in the electricity industry.

(2) The Board may, by means of appropriate methodologies, regulate, enforce and measure the financial and technical performance of licensees.

(3) The Board must endeavour to create and maintain a regulatory framework and electricity pricing regime which will support the licensee in giving effect to the duties set out in subrule (1).

Duties of customer in relation to provision of electricity

4. (1) Every customer must pay for the electricity provided or if a prepayment meter has been installed, to be provided, by a licensee to the customer's premises at the rate specified in the licensee's schedule of tariffs approved by the Board under section 27 of the Act for the particular category of consumption for which electricity is provided.

(2) Every customer is, unless otherwise provided in these rules, responsible for the payment of electricity provided to the customer's premises from the date on which the licensee commenced to provide electricity to the date on which the electricity provision is terminated.

(3) The licensee must make an account of moneys due by a customer in respect of every month or other period determined in the contract of supply during which electricity was provided and the licensee must deliver the account to the customer as soon as reasonably possible after the end of the month or the other period to which it relates.

(4) The customer must pay the account rendered by the licensee for electricity provided to the customer's premises not later than the last date for payment specified in the account and the licensee must include in an account a warning indicating that the provision of electricity may be discontinued or the contract of supply terminated if the account remains unpaid after the due date for payment indicated.

(5) If a customer fails to pay for electricity provided, the licensee may -

- (a) discontinue the provision of electricity to the customer's premises; and
- (b) forthwith terminate the contract of supply without prejudice to any claims it may have for breach of contract by the customer.

(6) Despite subrule (5), where a customer provides an emergency service, the licensee must as soon as possible after it became aware of the payment failure give notice to the customer and allow the customer at least 21 days after the date on which such notice was given to rectify the breach prior to the discontinuation and termination.

(7) If the customer subsequent to such discontinuation or termination settles its outstanding debts and requests the provision of electricity to be reconnected, the licensee may recover the cost of the reconnection from the customer in advance.

(8) If a customer disputes an account or submits a written request for the testing of the licensee's electricity meter or maximum demand metering installation, the customer is not entitled to defer payment of the disputed account beyond the due date referred to in this rule if the disputed account is less than twice the average account for the previous six months and in such case, the customer must pay as a minimum such twice average amount, but the disputed invoice may not be included in the calculation of the average account of the previous six months.

(9) Subject to subrule (12), if payment of an account is received after the due date referred to in this rule, a once-off late fee contained in the licensee's tariffs may be payable by the customer to the licensee in respect of every late payment by the customer.

(10) An error or omission in an account or failure to render an account does not relieve the customer of the obligation to pay the correct amount due for electricity provided to the customer's premises.

(11) The prohibition on a licensee in section 27(1) of the Act not to levy a charge against a customer, other licensee or any other person other than in accordance with the tariffs specified in the schedule of approved tariffs contained in the licensee's licence includes, subject to section 27(3) and (5) of the Act, a prohibition on the licensee against levying no charge or zero-rating a charge contained in such schedule of approved tariffs.

(12) A licensee may charge interest on accounts which are not paid by the due date appearing on the licensee's account in terms of the licensee's credit and debt collection policy and subject to any applicable Namibian law on the charging of interest but in such instance the licensee may not charge the late fee contemplated in subrule (9).

(13) Where a customer has made a payment in terms of subrule (8) and it is found that the customer has in fact overpaid in respect of the disputed account, the licensee must ensure that the overpaid amount is either repaid to the customer with interest, or that the amount paid in error is credited to the customer's account.

(14) A licensee must make its credit and debt collection policy available to its customers on request.

Application for supply, contracts of supply and connection of customers

5. (1) A customer or a person acting on behalf of the customer may make an application to a licensee in the form and manner determined by the licensee and together with such information as the licensee may require for -

- (a) the initial connection of the customer's premises to a supply main;
- (b) an increase or decrease in the existing electricity supply capacity; or
- (c) for the reconnection of the customer's premises to a supply main where a previous provision of electricity has been discontinued or terminated.

(2) A licensee is not obliged to provide electricity to a customer's premises within its licensed area unless the customer has concluded with the licensee a contract of supply.

(3) A person is not entitled to receive electricity provided by a licensee unless or until that person has entered into a contract of supply with the licensee or the licensee has waived the need for a contract of supply.

(4) Where a licensee, other than a licensee that is a local authority or regional council, at the commencement date of these rules has not concluded written contracts of supply with all its customers, that licensee must within a period of six months from the date of commencement enter into contracts of supply with all its customers except that a licensee may waive the need for a contract of supply if there is good reason to do so.

(5) A licensee may have -

- (a) generic or unique individual contracts of supply for its customers or categories of customers;
- (b) different generic or unique individual contracts of supply for different customers or different categories of customers,

except that a licensee may not unreasonably discriminate between customers or categories of customers.

(6) A licensee may establish a contract of supply between it and its customer in any of the following manners -

- (a) by separate and individual negotiation with a customer where the terms and conditions of the contract of supply are negotiable;
- (b) by providing a customer with a contract of supply, irrespective of whether generic or uniquely individual, containing the terms and conditions on which electricity is to be provided.;
- (c) by informing a customer -
 - (i) of the existence of a contract of supply, irrespective of whether generic or uniquely individual;
 - (ii) where such contract of supply can be obtained and scrutinised by the customer, free of charge, and this may include an electronic version thereof accessible via the internet or e-mailed to the customer, except that the licensee must make a physical copy of such contract of supply available, free of charge, at the licensee's offices upon request therefor by a customer; and
 - (iii) that electricity provision by the licensee to such customer is subject to that contract of supply.

(7) Subrule (6) applies with the necessary changes to the amendment or replacement of a contract of supply.

(8) A licensee may stipulate that acceptance by a customer of electricity provided by a licensee constitutes such customer's acceptance of, and agreement to, the licensee's contract of supply or an amendment or replacement, except that the licensee must, before the provision of electricity to which that contract or amendment applies -

- (a) provide the customer with the contract of supply or an amended contract; or

- (b) clearly inform the customer where the contract of supply or an amended contract can be obtained free of charge.

(9) The contract of supply together with the Act and all relevant subordinate legislation govern the electricity and services provided by a licensee to a customer but, if there is conflict between a contract of supply and the Act or the subordinate legislation, the Act and the subordinate legislation take precedence over the contract of supply.

- (10) A contract of supply must, subject to section 27 of the Act, specify -

- (a) whether the charges levied by the licensee are approved by the Board as contemplated in section 27 of the Act and, if there are exempted charges as contemplated in section 27(5) of the Act which apply to the customer, the nature of the charges must be specified, but -

- (i) the charges may be specified in an addendum to the contract of supply because there may be periodic changes to such charges; and
- (ii) the licensee must make the customer aware about the periodic changes;

- (b) in the case where the licensee's tariffs are not contained in the contract of supply, where the licensee's current tariffs can be viewed by the customer;

- (c) the grounds on which electricity provided to a customer may be terminated or suspended and the manner in which electricity provision is to be reinstated;

- (d) with due regard to subrules (1)(a) and (12), if the licensee erects or has erected any physical infrastructure to provide the customer with access to the licensee's electrical system, the charges levied against the customer for such infrastructure and the ownership of the infrastructure; and

- (e) such other terms and conditions as required by the Act and the subordinate legislation to be contained in the contract of supply.

(11) A licensee may, before entering into a contract of supply with a customer, undertake or cause to be undertaken, a credit reference on the customer in order to establish the creditworthiness of that customer and if the credit reference indicates a risk for the licensee the licensee may -

- (a) refuse to provide electricity to the customer unless a sufficient deposit is paid by the customer in accordance with these rules to mitigate such risk; or

- (b) require that customer to make use of a prepayment meter.

(12) Despite the fact that the customer may bear or share in the cost of a service connection or any other electrical system asset, ownership of a connection or that asset laid or erected by a licensee vests in the licensee and the licensee is responsible for the operation and maintenance of that connection up to the point of supply, unless specifically otherwise agreed with the licensee and in that case the licensee and the owner must enter into an agreement to ensure that the licensee has sufficient control over the connection or asset for the efficient provision of electricity.

- (13) For the purposes of this rule a customer includes a prospective customer.

Deposits

6. (1) Every customer or prospective customer, other than a customer on whose premises a prepayment meter has been installed, must, if so required by a licensee whether before or

after electricity is provided by a licensee to the customer's premises, deposit with the licensee, within such timeframe or on a date that the licensee determines, an amount determined by the licensee as a deposit which deposit -

- (a) may not exceed the estimated charge of more than three average months' consumption of electricity by the customer or prospective customer;
- (b) must be included in the licensee's schedule of approved tariffs; and
- (c) must be reflected on the customer's monthly account.

(2) A licensee may, from time to time, review the deposit referred to in subrule (1) and on such review -

- (a) subject to that subrule, require the customer to deposit an additional amount; or
- (b) refund to the customer the amount held by the licensee in excess of the reviewed deposit.

(3) If the customer fails to -

- (a) pay a deposit when so required under subrule (1); or
- (b) deposit an additional amount in accordance with subrule (2)(a),

within 30 days after being required in writing by the licensee to do so, the licensee may suspend the provision of electricity to the customer's premises until the deposit or the additional amount, and the charges as determined in the licensee's tariffs for the suspension and the subsequent restoration of the provision of electricity, are paid.

(4) Subject to subrule (5), a customer's deposit must not be regarded as payment or part payment of any amount due by the customer to the licensee for the provision of electricity or electricity services.

(5) The licensee may utilise the deposit -

- (a) to recover any amount due and owing by the customer to the licensee if the customer fails to pay such amount after having been requested by the licensee and the licensee may require the customer to replace the deposit;
- (b) if, on the termination of the provision of electricity to the customer, an amount remains due to the licensee in respect of electricity or electricity services provided to the customer's premises, in payment or part payment of the outstanding amount and refund any balance, if any, to the customer.

(6) Interest is not payable by the licensee on a deposit held by the licensee in terms of this rule.

(7) If the provision of electricity to a customer is finally terminated, the licensee must, unless the customer is to be reconnected and requests the licensee to retain the customer's deposit, refund the customer's deposit within two months from the date of termination.

(8) A licensee must ensure that it, by means of the payment of deposits and its disconnection policy, efficiently manages risks associated with failure by a customer to pay electricity charges levied against a customer by the licensee and must, in as far as possible, avoid the accumulation of unpaid charges in excess of the relevant deposit.

(9) A licensee must ensure that it keeps proper records of, and accounts for, all deposits received and refunded by it.

(10) A licensee may, instead of a deposit, require from the customer to provide the licensee with a guarantee and the provisions of this rule apply with the necessary changes to such guarantee.

Access

7. (1) In providing open access to existing or potential users of a licensee's transmission or distribution network, the licensee providing such open access may not -

- (a) unreasonably or unfairly discriminate between or among open access users;
- (b) levy charges for the provision of open access on a user which differ from the charges levied on other open access users, except to the extent that the differences reasonably reflect differences in the costs associated with the provision of open access; or
- (c) in levying charges for the provision of open access, restrict, distort or prevent competition in the provision of electricity.

(2) A licensee providing open access is not obliged to provide open access to its distribution or transmission network in accordance with this rule if -

- (a) to do so would likely result in the licensee contravening the Act, other laws or the condition of the licence or to subordinate legislation, its licence conditions or requirements regarding safety; or
- (b) the open access user does not undertake to be bound by the applicable terms and conditions of the licensee's distribution code or transmission code or applicable operation procedures.

(3) Where the Board has developed a methodology on connection charges which must be implemented by a licensee, a licensee must implement such connection charge methodology in the manner and within the time frame determined by the Board.

(4) Where a licensee has developed a connection charge policy, a licensee must, on request by a customer, provide the customer with the licensee's connection charge policy, which must be the most recent updated policy, within a period of 14 days or such longer period as the Board may determine after receipt of the request from the customer.

Electricity tariffs

8. (1) The Board may, after consulting with the relevant stakeholders in the electricity industry, develop and implement tariff methodologies for electricity pricing and such tariff methodologies -

- (a) may be amended, supplemented or replaced in the same manner when deemed necessary by the Board;
- (b) must be made available to relevant stakeholders and the public in general in the manner considered appropriate by the Board except that the Board must, on request, provide a person with a copy thereof, free of charge; or
- (c) may deal with any electricity charge or type of electricity charges, as contemplated in section 27(1) of the Act, including but not limited to TOU tariffs and special tariffs.

- (2) All charges that a licensee levies or intends to levy against a customer must be -
- (a) contained in the licensee's tariffs even if the charge is exempted from having to be in a licensee's schedule of approved tariffs in terms of section 27(5) of the Act; and
 - (b) consolidated in a single document which must be kept updated at all times and must be available to the licensee's customers and the general public.
- (3) A licensee must design and structure its tariffs in the manner determined by the Board, after consultation with the affected relevant stakeholders, and must include tariff components in such a manner that the licensee's tariffs appropriately reflect the following main types of costs -
- (a) demand related costs;
 - (b) asset related costs;
 - (c) energy related costs;
 - (d) shared customer's related costs; and
 - (e) customer specific costs.
- (4) In the interests of the economic and rational use and consumption of electricity, a licensee must whenever feasible or if so instructed by the Board -
- (a) provide customers with the option of TOU tariffs for the variable energy component of the tariff; and
 - (b) ensure that such option and the structure thereof are contained in its schedule of approved tariffs prior to offering such option to its customers,
- but the Board may make the use of TOU tariffs compulsory for licensees and customers or categories of customers.
- (5) Where a licensee applies TOU tariffs, the licensee must design and structure the TOU tariffs in accordance with subrule (3) and include tariff components in such a manner that the licensee's TOU tariffs appropriately reflect the applicable types of costs contained in subrule (3) and in accordance with the Board's tariff methodology.
- (6) A licensee must submit all of the licensee's tariffs, which must be up to date, to the Board when applying for a revision of tariffs as contemplated in section 27(2) of the Act whether or not charges contained therein are exempted under section 27(5) of the Act.
- (7) If a licensee communicates its electricity tariffs, whether to its customers or to any other person or whether required by law or for any other reason, such electricity tariffs must be -
- (a) specifically stated and may not consist of a mere reference to another document; and
 - (b) set out, and if necessary, be explained in a manner which facilitates understanding by a non-technical person.
- (8) If an amendment to a licensee's schedule of approved tariffs in respect of the charges determined for the provision of electricity or for the rendering of the service of electricity provision, enters into force on a date between meter readings -

- (a) it is considered, for the purpose of rendering an account for electricity provided by the licensee, that the same quantity of electricity was provided every day during the period between the meter readings; and
 - (b) any availability charge or minimum monthly charge levied in accordance with subrule (11) must be calculated on a proportional basis in accordance with the rate which applied immediately before the amendment and the amended rate.
- (9) A licensee may, if a fixed charge is contained in the licensee's schedule of approved tariffs, levy the fixed charge for the consumption of electricity if the consumption is such that it is not feasible to meter the consumption.
- (10) Subject to subrule (11), a licensee may, if an availability charge or a monthly minimum charge is contained in the licensee's schedule of approved tariffs, levy the availability charge or a monthly minimum charge for the rendering of the service of electricity provision to the different categories of customers, including pre-payment meter customers, within its licensed area.
- (11) Where an availability charge is levied in terms of subrule (10), such availability charge must be paid by every -
- (a) owner of premises located within a local authority area, with or without improvements, which are not connected to a supply main but which can reasonably be provided with such a connection as long as the service of electricity provision is available under, on or above any road adjoining the premises of the owner against whom the charge is levied; and
 - (b) customer in respect of each connection which the licensee provides to service the customer's premises, whether or not electricity is consumed on the customer's premises.
- (12) Where a minimum monthly charge is levied in accordance with subrule (10), it must be paid by every customer in respect of a specified minimum quantity of electricity, whether or not the quantity has actually been consumed by the customer, but, if the quantity of electricity consumed exceeds the minimum quantity specified, the normal rate, except where otherwise provided, must be charged and be paid in respect of the quantity exceeding the minimum.

Register of tariffs

9. (1) The Board must keep and maintain a register -
- (a) in which is recorded the schedule of approved tariffs in respect of every licence issued under the Act; and
 - (b) which contains a schedule of approved tariffs.
- (2) Any approved revision of, or deviation from, a schedule of approved tariffs must be reflected on the appropriate schedule of approved tariffs in the register as soon as possible after such revision or deviation has been approved.
- (3) The Board may keep the register contemplated in subrule (1), in either electronic or a paper-based format, and in case the Board keeps an electronic register such register must be made available on the official website of the Board on the internet.
- (4) The register is open for inspection by any interested person at the place of business of the Board during normal working hours, and any such person may request copies or extracts of any

entry in the register and the Board must provide the person with such copies or extracts on payment of the cost, as determined by the Board, to the Board.

(5) A person may not -

- (a) make or cause to be made any false entry in the register; or
- (b) prepare and submit to any person, a false copy of any entry in the register or cause a false copy of such entry to be prepared and submitted.

(6) The chief executive officer may issue such general or specific directives as regards the inspection of the register as he or she considers appropriate.

(7) A person who contravenes or fails to comply with subrule (6) commits an offence and, on conviction, is liable to a fine not exceeding N\$16 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Determination of electricity provided and consumed

10. (1) The quantity of electricity provided by a licensee to a customer's premises during a meter reading period is the quantity registered by the meter that records that customer's electricity consumption over the period in question, with due regard to any multiplying or dividing constant applicable to the meter.

(2) A customer is not entitled to a rebate on any account rendered by the licensee for electricity provided where any wastage of electricity occurred because of a leakage or any other fault on the electrical installation.

(3) The licensee must cause all electricity meters to be read monthly, unless another fixed period is prescribed in the contract of supply or in any subordinate legislation, in which case the licensee may -

- (a) estimate the quantity of electricity provided over any period during the interval between successive readings of an electricity meter; and
- (b) render an account to a customer for the quantity of electricity so estimated.

(4) If so requested by a customer, the licensee must cause a special reading of the electricity meter to be taken, in which case the customer is liable to pay the charge which the licensee determines in its schedule of approved tariffs for the reading.

(5) A licensee may decide to base an estimation of consumption on a customer's premises on one of the following -

- (a) the average monthly consumption during a period of 90 consecutive days before the month in respect of which a reading is disputed or it was noted that a meter is defective;
- (b) the average monthly consumption registered over three successive metered periods after the repair or replacement of a defective meter; or
- (c) the consumption recorded for the corresponding period in the previous year.

(6) Where applicable due allowance must be made, in as far as possible, for seasonal or other variations which may affect the consumption of electricity by the customer.

(7) If an adjustment is made as regards the quantity of electricity consumed by a customer, the adjustment and any claims between a licensee and a customer for overcharging or undercharging of electricity provided may not exceed the period prescribed by the law regulating the prescription of claims in Namibia.

(8) If a prepayment meter is found to be defective, the licensee may take such steps as the licensee considers necessary to rectify an overcharging or undercharging including, but not limited to -

- (a) if the prepayment meter has been undercharging, render an account to the customer; or
- (b) if the prepayment meter has been overcharging, issue free tokens to the same value to the customer.

Prepayment meters

11. (1) Where a prepayment meter is installed on a customer's premises -

- (a) the licensee must clearly explain the cost involved to the customer;
- (b) the installation cost is for the customer's account unless otherwise determined by the licensee; and
- (c) the meter, unless otherwise agreed between the licensee and the customer, remains the property of the licensee.

(2) A person is not entitled to a refund of the amount tendered for the purchase of electricity credit after initiation of the process by which the prepayment token is produced.

(3) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the customer.

(4) If a customer vacates any premises where a prepayment meter is installed, the customer is not entitled to a refund by the licensee for credit remaining in the meter.

(5) A licensee is not liable for the reinstatement of credit in a prepayment meter lost due to tampering with, the incorrect use of or the abuse of the prepayment meter or tokens or for any other occurrence not deliberately or negligently caused by the licensee.

(7) Where a prepayment meter customer is indebted to the licensee for electricity consumed or for any other electricity service supplied by the licensee or for any charges previously raised against the customer in connection with any electricity service rendered, the licensee may, as an alternative to rendering an account for such debt, deduct a percentage from the amount tendered for prepayment electricity to offset the amount owing to the licensee.

(8) The licensee may, at its discretion, subcontract prepayment meter services but may not enter into an indefinite contract with a subcontractor and must at regular intervals procure a subcontractor in a competitive and transparent procurement process and, for purposes of clarity, it is confirmed that such subcontractor does not require a licence under the Act.

(9) For the purposes of subrule (8), the Board may determine the intervals contemplated therein and the number of subcontractors to be appointed by a licensee.

(10) If a licensee subcontracts prepayment meter services as contemplated in subrule (8), the licensee must introduce such measures as may be reasonable under the circumstances, including

but not limited to appointing more than one subcontractor, to ensure continuity of service in the case where the subcontractor, for whatever reason, cannot provide the relevant services.

(11) Subject to the approval of the Board, a licensee may place limitations on the amount of electricity which may be acquired for purposes of a prepayment meter within a specified period of time.

Charges in case of improper use, tampering and other costs

12. (1) If a customer -

- (a) uses electricity provided to the customer's premises for any purpose; or
- (b) deals with the provision of electricity to the customer's premises in any manner, which, in the opinion of a licensee, interferes with or is likely to interfere with the safe or efficient provision of electricity by the licensee to that, or any other premises,

the licensee may without prior notice suspend the provision of electricity to the customer's premises.

(2) A licensee must restore the provision of electricity suspended in terms of subrule (1) if the -

- (a) cause for the suspension of the electricity provision has been permanently remedied or removed to the satisfaction of the licensee; and
- (b) fees set out in the licensee's tariffs for the suspension and restoration of as well as any other arrears for the provision of electricity and costs for physical damages caused by the customer to the equipment of the licensee have been paid.

(3) Where a customer has consumed electricity for a category of consumption other than for which it is provided by the licensee and as a result, the customer is charged at a rate lower than the rate which should have been charged, the customer must, for the period from the date of the last reading of the meter, before the reading which led to the discovery of the unauthorised use of electricity, to the date it has been proved to the satisfaction of the licensee that the unauthorised use had ceased, pay for all electricity consumed at the higher rate.

(4) In the case of tampering or interference with or damage to a metering installation or other equipment of a licensee, the licensee is not obliged to restore the provision of electricity which has been suspended as a result of the tampering or interference with or damage to the installation or equipment, unless the customer has paid -

- (a) where applicable, the costs incurred by the licensee for the testing, repair or replacement of the metering installation; and
- (b) the charges contained in the licensee's tariffs for the suspension and subsequent restoration of the provision of electricity.

(5) Where it is on reasonable grounds suspected that the tampering or interference with the metering installation or any other part of the service apparatus or connection on the customer's premises has resulted in the metering installation not registering or not registering correctly the electricity consumption by the customer, the licensee may -

- (a) estimate, in accordance with the relevant subordinate legislation or any other rules issued by the Board, the quantity of electricity supplied to the customer's premises for the period from the date of the previous last reading of the meter, before the reading which led to the discovery of the failure of the meter, to the date on which the provision of electricity has been suspended; and

- (b) recover from the customer for the electricity supplied the charges based on the estimated quantity.

(6) Where it is found that any reconnection or restoration of the provision of electricity was made on the customer's premises in contravention of these rules, the relevant subordinate legislation, any other rules issued by the Board or the contract of supply, the customer is liable to pay -

- (a) the charges for electricity consumed for the period from the date of disconnection or suspension to the date the provision was found to be reconnected or restored; and
- (b) the cost of any subsequent disconnection or suspension of the provision by the licensee.

(7) If a licensee is unlawfully obstructed or prevented from entering a customer's premises under the Act or subordinate legislation, the licensee may charge the relevant customer the charge determined in the licensee's tariffs for each visit to the customer's premises necessary to enter such premises for such purpose.

(8) Where the metering installation or any other equipment of the service apparatus on any customer's premises is damaged or destroyed because of any failure on the part of the customer to -

- (a) comply with the requirements set out in any subordinate legislation; or
- (b) maintain in proper order the metering installation or other equipment,

the customer is liable to pay to the licensee any costs which the licensee incurs for the repair or substitution of the metering installation or the equipment as a result of the failure.

(9) If a customer requests a licensee to change the route of any overhead electric powerline or underground electric cable across the customer's premises or the position of the licensee's equipment or meters, the licensee may, if it is possible under the circumstances to effect such changes, before effecting the change, require that the cost to be incurred by the licensee in effecting the change or removal be borne, and paid in advance by the customer.

(10) The licensee is not obliged to effect any repair to the electrical installation on the customer's premises, but must repair any damage which has been caused to the service apparatus as a result of the fault in the electrical installation.

(11) In a case contemplated in subrule (10), the customer -

- (a) must reimburse the licensee for any expenses which the licensee incurs in connection with the repair; and
- (b) is liable to pay to the licensee the fee set out in the licensee's tariffs for the disconnection of the supply of electricity and for the subsequent restoration of the supply.

Objections to accounts

13. (1) A customer may -

- (a) dispute the correctness of the quantity of electricity provided by a licensee to the customer's premises as reflected on an account rendered by the licensee and in

- writing object to the account and request that the electricity meter in question be tested by the licensee; or
- (b) request that an electricity meter be tested.
- (2) A request in terms of subrule (1) must -
- (a) set out the reasons for the request and, in the case of an objection, the reasons for such objection;
 - (b) be delivered to the licensee not more than 90 days after the receipt of the account in question; and
 - (c) be accompanied by the deposit specified in the licensee's tariffs for the testing of a meter, if any.
- (3) If the provisions of subrule (2) have been complied with, the licensee must immediately cause the electricity meter concerned to be tested -
- (a) in accordance with the standards applicable to the testing of electricity meters set out in the Technical Rules published under Government Gazette No. 5950 of 2016; or
 - (b) by means of an appropriately calibrated check meter.
- (4) An electricity meter is considered to be registering accurately if on being tested it is found to be registering -
- (a) in the case of an electricity energy meter, not over or under the reading of the test meter by more than two and one half percent;
 - (b) in the case of an electricity maximum demand metering installation, not over or under the reading of the test meter by more than three and one half percent.
- (5) If, on a testing, the electricity meter is found not to be defective, the licensee retains the amount deposited by the customer, but if it is found to be defective, the licensee must -
- (a) refund to the customer the amount deposited in terms of subrule (2);
 - (b) repair the electricity meter or install another electricity meter which is in good working order, without charge to the customer, unless the cost thereof is recoverable from the customer in terms of the contract of supply or the subordinate legislation; and
 - (c) determine the quantity of electricity for which the customer must be charged instead of the quantity registered by the defective electricity meter, in accordance with rule 10(5).
- (6) Where an adjustment is made as regards the quantity of electricity consumed by a customer, the adjustment and any claims between a licensee and a customer for overcharging or undercharging of electricity provided must be brought within the time limits prescribed by the law regulating the prescription of claims in Namibia.

Termination of electricity provision

14. (1) A customer may, subject to the terms and conditions of the contract of supply, terminate the provision of electricity by giving the licensee sufficient notice in writing which may not be less than seven days.

(2) Subject to subrules (3) and (4), the licensee may terminate the provision of electricity to a customer and also terminate the contract of supply, if any, if the customer concerned has -

- (a) not consumed any electricity during the preceding six months and has not made arrangements to the satisfaction of the licensee for the continuation of the provision of electricity; or
- (b) contravened any provision of the Act, these rules, the subordinate legislation, the contract of supply or any law or standard applicable to the wiring of premises and has failed to rectify the contravention within 48 hours, or such other period as indicated by the license, after being required in writing by the licensee to do so.

(3) In the case of the termination of the provision of electricity in terms of subrule (2) (a), the licensee must give the customer sufficient notice of its intention to terminate the provision of electricity which notice may not be less than seven days, unless otherwise determined in the contract of supply between the licensee and the customer.

(4) The licensee may, without notice, terminate the provision of electricity and the contract of supply, if any, if the customer has vacated the customer's premises to which the provision of electricity relates without having made arrangements to the satisfaction of the licensee for the continuation of the provision of electricity.

Suspension, disconnection and reconnection

15. (1) If the licensee considers it necessary as a matter of urgency to prevent the unauthorised consumption of electricity, damage to property or danger to life, the licensee may, without prior notice and without prejudice to the licensee's power under rule 12 -

- (a) suspend the provision of electricity to any customer's premises;
- (b) enter the customer's premises and carry out, at the customer's expense, the emergency work which the licensee considers necessary; or
- (c) by written notice, require the customer to carry out within a period specified in the notice, the work which the licensee considers necessary.

(2) If the provision of electricity to any customer's premises is suspended under subrule (1), the customer concerned must, before the provision is restored by the licensee, pay the charges for the suspension of the provision of electricity and for the restoration of electricity provision as set out in the licensee's tariffs.

(3) If so requested by a customer, a licensee must temporarily disconnect, and thereafter reconnect, the provision of electricity to the customer's premises on payment of the charges as determined in the licensee's tariffs for the disconnection and for the reconnection of the provision of electricity.

(4) The licensee may, in the case of an emergency, without notice disconnect temporarily the provision of electricity to any customer's premises where the disconnection is necessary for the purpose of effecting repair, making tests or any other reasonable purpose and no payment may be charged in such instance.

(5) Where a licensee repairs damage caused to the service apparatus as a result of a fault on the electrical installation, the customer -

- (a) must reimburse the licensee for any expenses which the licensee incurs in connection with the repair; and

- (b) is liable to pay to the licensee the fee determined in the licensee's tariffs for the disconnection of the provision of electricity and for the subsequent restoration of the supply.

Economic regulation of unlicensed generation

16. (1) Where the operator of an unlicensed generator requires compensation from a third person for electricity provided from the unlicensed generator, the charging of such compensation is subject to any rules in force relating to the resale of electricity in Namibia and those rules apply with the necessary changes to such compensation and such operator is considered to be a reseller for the purposes of those rules.

- (2) The operator of a small scale in-feed generator is entitled to -
 - (a) net metering from the connecting licensee, as long as the small scale in-feed generator is not a net exporter of electricity to the licensee's electrical system;
 - (b) such other compensation by the connecting licensee as the Board may approve.

(3) The operator of an unlicensed generator is, unless otherwise agreed between the operator and the connecting licensee, responsible for costs involved in connecting the unlicensed generator to the connecting licensee's electrical system including for all metering equipment required and all other interconnection costs.

(4) A connecting licensee must develop a net metering system and such other form of compensation as may be approved by the Board in order to recognise electricity fed into its electrical system by operators of small scale in-feed generators as contemplated in this rule.

(5) A connecting licensee may, subject to section 28 of the Act, impose fees for the functions that it must perform in respect of unlicensed generation such as application fees and inspection fees except that such fees must be reasonable, fair and cost-related.

Local government electricity levies

17. (1) A licensee may, on behalf of a local authority council or regional council (hereinafter called a local government), include in its schedule of approved tariffs a levy in favour of the local government in accordance with the manner determined by the Board and for this purpose the Board must develop a local government levy methodology which methodology must be consulted with affected relevant stakeholders.

- (2) The local government levy may be calculated -
 - (a) as a fixed monetary amount;
 - (b) as a percentage of denominator such as cents per kilowatt-hour electricity consumed;
or
 - (c) in such other manner as the Board considers appropriate.

(3) The local government levy is payable by the electricity customers in the jurisdictional area of the relevant local government and may be collected by a licensee providing electricity within that jurisdictional area.

(4) If a licensee collects the local government levy, that licensee is only the collecting agency for the local government levy and the levy does not form part of the income of the licensee.

(5) For the purposes of this rule, the Board may enter into an agreement with a licensee and the relevant local government as to the manner in which the local government levy is to be administered.

(6) The Board may require a licensee to indicate the local government levy on its electricity accounts in the manner determined by the Board.

Complaints and disputes

18. (1) Any complaint regarding these rules may be submitted in writing to the Board for investigation.

(2) If there is a dispute regarding these rules such dispute may be referred to the Board for mediation as contemplated in section 3(2)(c) of the Act.
